

**UNITED STATES BANKRUPTCY COURT
DISTRICT OF RHODE ISLAND (Providence)**

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| In Re: David W. Wagner | Case No. 1:18-bk-10071 Chapter 7 |
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DEUTSCHE BANK NATIONAL TRUST
COMPANY, AS TRUSTEE FOR SOUNDVIEW
HOME LOAN TRUST 2006-OPT5, ASSET-
BACKED CERTIFICATES, SERIES 2006-OPT5
its successors or assigns,

Movant.

v.

DAVID W. WAGNER,

Debtor.

**MEMORANDUM OF LAW IN SUPPORT OF MOTION OF MOVANT FOR RELIEF FROM
THE AUTOMATIC STAY**

INTRODUCTION:

The facts of this case and motion are more specifically spelled out in the Motion for Relief from Automatic Stay filed herewith to which the Court is referred. In the Motion, Deutsche Bank National Trust Company, as Trustee for Soundview Home Loan Trust 2006-OPT5, Asset-Backed Certificates, Series 2006-OPT5 ("Movant") requests relief from stay in order to pursue its remedies under state law to liquidate its secured claim against the property of the estate of the David W. Wagner (hereinafter the "Debtor") by foreclosure of its mortgage. The Debtor has defaulted on the mortgage payments both pre and post-petition, and thus Movant is not being adequately protected. Furthermore, there is no equity in the property such that the Chapter 7 Trustee has no interest in it.

ARGUMENT:

Section 362 (d) (2) of the Bankruptcy Code states in relevant part that the Court may terminate the automatic stay "if the debtor does not have equity in such property." As set forth in Movant's motion the Debtor does not have equity in the property, thus permitting this Court to terminate the stay as regards this property.

CONCLUSION:

For the foregoing reasons, Movant respectfully requests that this Court enter an order lifting the automatic stay in effect in order to permit Movant to proceed to exercise its rights and remedies under state law and under a certain note and mortgage, including but not limited to foreclosure.

Date: February 5, 2018

Respectfully submitted,
Deutsche Bank National Trust Company, as Trustee for
Soundview Home Loan Trust 2006-OPT5, Asset-Backed
Certificates, Series 2006-OPT5
By its attorney,

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